

Ethan J. Birnberg (#7-4761)
John C. Smiley (#5-2381)
LINDQUIST & VENNUM LLP
600 17th Street, Suite 1800-S
Denver, Colorado 80202
Phone: (303) 573-5900
Facsimile: (303) 573-1956
Counsel for HealthTech Management Services, Inc. and William D. Patten

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF WYOMING**

In re:)	
)	
POWELL VALLEY HEALTH CARE, INC.,)	Case No. 16-20326
SSN: XXX-XX-8841,)	Chapter 11
)	
Debtor.)	

**MOTION FOR ORDER AUTHORIZING RULE 2004 EXAMINATIONS
AND PRODUCTION OF DOCUMENTS**

HealthTech Management Services, Inc. and William D. Patten (together, “HealthTech”), through counsel, for their Motion for Order Authorizing Rule 2004 Examinations and Production of Documents (this “Motion”) state:

1. On May 15, 2016 (the “Petition Date”), Powell Valley Health Care, Inc. (“Debtor”), filed a voluntary petition for relief under chapter 11 of title 11, U.S.C. (the “Bankruptcy Code”), commencing this bankruptcy case.
2. Ten individuals serve as the Debtor’s board of directors and officers.
3. On June 21, 2016, the United States Trustee’s Office appointed members of the Official Committee of Unsecured Creditors (the “Committee”). *See* Dkt. ## 145, 210. There are six members of the Committee.
4. The Powell Hospital District (the “District”) is an entity that, among other things, leases property to the Debtor, including the hospital that Debtor operates.

5. HealthTech Management Services, Inc. and William D. Patten are creditors of the Debtor. *See* Claims Register, Claim Nos. 8 and 9.

6. On April 24, 2017, the Debtor filed its Disclosure Statement in Support of Chapter 11 Plan of Reorganization Dated April 24, 2017 (the “Disclosure Statement”).

7. On April 25, 2017, the Debtor filed its Chapter 11 Plan of Reorganization (the “Plan”).

8. Consistent with rights provided by the Bankruptcy Code, HealthTech requests authority to investigate the Debtor, the District, and the Committee, respectively, and their actions, communications, conduct, asset and liabilities, and aspects of Debtor’s Plan and reorganization planning and negotiations. HealthTech’s investigation includes matters that may affect the administration of the estate, and entities or persons affiliated with, related to, or otherwise connected with the Debtor and the estate.

9. HealthTech must further understand the Debtor’s Disclosure Statement and Plan, including: (a) why the Debtor stated that certain aspects of the Plan are consented to by the Committee, yet the Committee alleges that it did not consent; (b) the Debtor’s status and authority to file for bankruptcy protection under chapter 11 of the Bankruptcy Code; (c) whether the Plan was filed in good faith since it classifies unsecured creditors differently and proposes different, disparate treatment for similarly situated creditors; (d) why releases of third parties have been proposed and are appropriate; (e) why certain claimants may pursue claims in other forums while HealthTech cannot; and (f) issues related tax implications for the Debtor and the effect upon the bankruptcy estate.

10. HealthTech seeks authority to conduct Rule 2004 examinations of Debtor’s Board of Directors, the District, and the members of the Committee. These individuals and entities are:

- a) The Powell Hospital District

Board of Directors

- b) Deb Kleinfeldt;
- c) Jim Carlson;
- d) Larry Parker;
- e) Bonni Katz;
- f) RJ Kost;
- g) Beth Glib;
- h) Gerri Ackley;
- i) Dr. Williams Jarvis;
- j) Dr. Nathaniel Rieb;
- k) Dr. Jacob Merrell;

Committee Members

- l) Larry Heiser;
- m) Michelle Oliver;
- n) Shane Wilson;
- o) Veronica Sommerville;
- p) Joetta Johnson; and
- q) Susan Stambaugh.

11. Pursuant to L.B.R. 2004-1, HealthTech's counsel has conferred with all parties subject to this Motion, as follows:

- a) The Committee: HealthTech's counsel conferred with Committee's counsel. The Committee generally agreed to cooperate with HealthTech's request to set mutually convenient times and places for examinations, but took no formal position.
- b) The District: HealthTech's counsel conferred with District's counsel. The District generally agreed to cooperate with HealthTech's requests for document production, to the extent that documents were not privileged or duplicative of document produced by the Debtor. The District also agreed to discuss a mutually convenient time and place for examination, if an examination is necessary.
- c) The Debtor: HealthTech's counsel conferred with Debtor's counsel. The Debtor informally agreed to cooperate with HealthTech's request to set mutually convenient times and places for examinations, but took no formal position. Specifically, Debtor's counsel had some concern whether conducting examinations of each Board of Director was necessary, and the parties agreed to discuss the most efficient procedure to comply with HealthTech's discovery requests after the Court's adjudicates this Motion.

12. Under Rule 2004 of the Federal Rules of Bankruptcy Procedure (“Bankruptcy Rules”), HealthTech also seeks authority from this Court to issue subpoenas *duces tecum* to the above individuals concerning the Debtor, the District, and the Committee, and their respective affairs. The documents that HealthTech requests relate to the Debtor’s property, bankruptcy case, reorganization plan, and administration of the Debtor’s estate as contemplated by Fed. R. Bankr. P. 2004. HealthTech’s production requests are attached to this Motion.¹

13. HealthTech will promptly serve the individuals and entities listed above and seek production of documents pursuant to this Court’s authorization, not sooner than 14 days after service is effectuated, at the offices of Lindquist & Vennum LLP, 600 17th Street, Suite 1800-South, Denver, Colorado 80202, or at a time and place mutually agreed to by the parties. *See* L.B.R. 2004-1. If the parties cannot find a mutually convenient time and place for Rule 2004 examinations on their own, HealthTech will seek Court authority for a specific date, time, and place to conduct the examinations.

¹ *See* Exhibits A, B, and C. HealthTech reserves its right to amend its production requests subsequent to this Motion. Any amended requests will be within the scope of Fed. R. Bankr. P. 2004.

WHEREFORE, HealthTech respectfully requests that the Court enter an order granting this Motion authorizing them to examine the above individuals and entities under oath and to subpoena them for said examination and for the production of documents as allowed by Local Bankruptcy Rule 2004-1 and Rule 2004 of the Bankruptcy Rules.

Dated: May 18, 2017.

LINDQUIST & VENNUM LLP

By: /s/ Ethan J. Birnberg
John C. Smiley, #5-2381
Ethan J. Birnberg, #7-4761
600 17th Street, Suite 1800 South
Denver, CO 80202-5441
Telephone: (303) 573-5900
Facsimile: (303) 573-1956
Email: ebirnberg@lindquist.com
jsmiley@lindquist.com

*Counsel for HealthTech Management Services, Inc.
and William D. Patten*

CERTIFICATE OF SERVICE

I hereby certify that on May 18, 2017, copies of the foregoing **MOTION FOR ORDER AUTHORIZING RULE 2004 EXAMINATIONS AND PRODUCTION OF DOCUMENTS** were served electronically to the following parties on the Court's Electronic Mail Notice List for this case:

- Ethan J. Birnberg ebirnberg@lindquist.com, bblessing@lindquist.com;G31916@notify.cincompass.com
- Tiffany M. Brown tbrown@meagher.com, rsetzer@meagher.com
- James T. Burghardt jim.burghardt@moyewhite.com, kim.maynes@moyewhite.com
- Chad S. Caby ccaby@lrrc.com, kmeans@lrrc.com
- Brent R. Cohen bcohen@lrrc.com, jlittle@lrrc.com
- Jamie Cotter jcotter@spencerfane.com, nhoff@spencerfane.com,nschacht@spencerfane.com;lepps@spencerfane.com;sgoldstein@spencerfane.com
- Michael S. Davis mdavis@zeklaw.com, BLeinbach@zeklaw.com
- Gregory C. Dyekman greg.dyekman@draylaw.com, GCDWyo@aol.com;monica.lincoln@draylaw.com
- Patrick T. Holscher pat@schwartzbon.com, hbaldwin@schwartzbon.com
- Bradley T Hunsicker bhunsicker@markuswilliams.com, jtokuoka@markuswilliams.com;docket@markuswilliams.com
- Eric L. Johnson ejohnson@spencerfane.com, lwright@spencerfane.com,sestlund@spencerfane.com,blamer@spencerfane.com,drambo@spencerfane.com
- Deborah Kellam Kellamd@hallevans.com, brimerd@hallevans.com;shurtleffl@hallevans.com;kringd@hallevans.com;tamborelloa@hallevans.com
- Sarah A. Kellogg Kellogg@spencelawyers.com
- Robert A. Krause Krause@spencelawyers.com, morguson@spencelawyers.com
- Daniel J. Morse daniel.j.morse@usdoj.gov
- Jon M. Moyers jon@jmoyerslaw.com, kohnkathryn1@gmail.com;sherri@jmoyerslaw.com
- Catherine A. Naltsas cnaltsas@lynberg.com, jcarlisle@lynberg.com;jdoctors@lynberg.com
- Philip A. Pearlman ppearlman@spencerfane.com, nschacht@spencerfane.com
- George E. Powers gpowers@spkm.org, lholman@spkm.org;atty@spkm.org;efile@spkm.org
- Elizabeth Richards Richards@spencelawyers.com, morguson@spencelawyers.com
- Randy L. Royal rlroyal@randylroyalpc.com, WY03@ecfcbis.com;charlene@randylroyalpc.com;msanderton@randylroyalpc.com;receptionist@randylroyalpc.com
- Jennifer M. Salisbury jsalisbury@markuswilliams.com, janderson@markuswilliams.com;docket@markuswilliams.com
- Lance E. Shurtleff shurtleffl@hallevans.com, tamborelloa@hallevans.com

- John C. Smiley jsmiley@lindquist.com, jgroskopf@lindquist.com;mgilbert@lindquist.com
- Timothy M Swanson tim.swanson@moyewhite.com, Melissa.dymerski@moyewhite.com;audra.albright@moyewhite.com
- Julie Nye Tiedeken jtiedeken@mtslegal.net
- US Trustee USTPRegion19.cy.ecf@usdoj.gov
- Timothy L. Woznick Tim.Woznick@draylaw.com, monica.lincoln@draylaw.com;polli.bryant@draylaw.com
- John F. Young jyoung@markuswilliams.com, jtokuoka@markuswilliams.com

I further certify that on May 18, 2017, copies of the same were served via U.S. Mail, first class postage prepaid, to the following:

Bradley T. Hunsicker, Debtor's counsel
Markus Williams Young & Zimmermann LLC
106 East Lincolnway, Suite 300
Cheyenne, WY 82001

Royal L. Royal, Committee Counsel
Randy L. Royal
P.O. Box 551
524 5th Ave. S.
Greybull, WY 82426-2322

Philip A. Pearlman and Jamie Cotter, Committee Counsel
Spencer Fane Britt & Browne
1700 Lincoln St., Suite 2000
Denver, CO 80203

Scott J. Goldstein, Lisa A. Epps, Eric L. Johnson, and Bryant T. Lamer
Committee Counsel
Spencer Fane LLP
1000 Walnut Street, Suite 1400
Kansas City, MO 64106

Chad S. Caby and Brent R. Cohen, counsel for the District
Lewis Roca Rothgerber Christie LLP
1200 17th Street, Suite 3000
Denver, CO 80202-5855

/s/ Brandon Blessing
Brandon Blessing